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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,211	03/23/2004	Hiroki Hasegawa	826.1938	1684
21171	7590	10/03/2007		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER CLOUD, JOIYA M	
			ART UNIT 2144	PAPER NUMBER
			MAIL DATE 10/03/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/806,211

Applicant(s)

HASEGAWA ET AL.

Examiner

Joiya M. Cloud

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :06/10/2004, 10/13/2007,09/14/2005.

***DETAILED ACTION***

1. This action is responsive to the application filed on March 23, 2004. Claims 1-14 represent Apparatus for adjusting use resources of system and method thereof.

2.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 11 claims a conveyance signal (paragraph [0125]), which does not fall under statutory subject matter.

4.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. **Claims 1-14** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Jackson et al. (US Pub. No. 2002/0152305 A1)**

**As per claim 1**, Jackons teaches a resource adjustment apparatus for adjusting for each module an amount of computer resources used in a system having a plurality of modules each comprising at least one application programs, comprising:

a storage device storing data representing a transition of a past transaction occurrence amount for each of the plurality of modules (**Abstract, history repository 2300, paragraphs [0444], [0454] and [0461]**);

a generation device obtaining data representing a transition of a transaction occurrence amount of a target module from the storage device and using the transaction occurrence amount as a transaction processing amount in a function that expresses a correlation between a past transaction processing amount and a past use resource amount of the target module, thereby generating a transition of a use resource amount from the transition of the transaction occurrence amount of the target module (**paragraphs [0454], [0461] and [0462], Figures 17-18 and paragraphs [0490]-[499]**);

and an allocation device using the generated transition of the use resource amount as a transition of a predicted use resource amount and automatically fluctuating an allocation resource amount of the target module in accordance with the transition of the predicted use resource amount (**Figure 17, [0343] and [0390]**).

**As per claim 2**, claim 2 is substantially the same as claim 1, but in computer-readable storage medium form rather than apparatus form.

**As per claim 3**, Jackson teaches a storage medium wherein the program causes a computer to perform: generating a transition of a predicted transaction occurrence amount in each of several types of cycles using the data that represents the transition of the transaction occurrence amount of the target module, displaying the generated transition on a screen and combining the transitions of the transaction occurrence amounts in respective cycles in accordance with an instruction from an operator, thereby generating a transition of a predicted transaction occurrence amount (**paragraph [0446]**); applying said function to the transition of the predicted transaction occurrence amount; and generating a transition of the use resource amount (**paragraph [0450]**).

**As per claim 4**, Jackson teaches a storage medium wherein the program causes the computer to perform: generating transitions of a mean value and a maximum value of transaction occurrence amounts regarding at least two modules in each of the several types of cycles in the system; displaying the generated transitions on a screen; combining transitions of transaction occurrence amounts in respective cycles using a value selected by the operator; and generating a transition of the predicted transaction occurrence amount (**paragraphs [0448] [0449], and [0450]**).

**As per claim 5**, Jackson teaches a storage medium wherein the program causes the computer to perform: displaying the generated transition of the use resource amount on a screen; and when an operator changes the displayed transition of the use resource amount, using the

changed transition of the use resource amount as the transition of the predicted use resource amount (**paragraphs [0448] [0449], and [0450]**).

**As per claim 6**, Jackson teaches a storage medium wherein the program causes the computer to perform: obtaining data that represents a transition of a most-recent transaction occurrence amount of the target module from the storage device; using a transition of a use resource amount generated by the transition of the most-recent transaction occurrence amount as a transition of a immediately-after predicted use resource amount; and fluctuating an immediately-after allocation resource amount of the target module (**paragraphs [0461] and [0462]**).

**As per claim 7**, Jackson teaches a storage medium wherein the program causes the computer to perform: preferentially allocating resources to the target module during a period since a use resource amount of the target module reaches a predetermined bottleneck detection threshold until a use resource amount of the target module reaches a bottleneck elimination threshold (**paragraphs [0461], [0467], and [0600]**).

**As per claim 8**, Jackson teaches storage medium wherein the program causes the computer to perform: preferentially allocating resources to the target module during a period since a transaction occurrence amount of the target module reaches a predetermined bottleneck detection threshold until a transaction occurrence amount of the target module reaches a bottleneck elimination threshold (**paragraph [0461], [0467] [0600]**).

**As per claim 9**, Jackson teaches a storage medium wherein the program causes the computer to perform: instructing the target module to generate a child processing when a

predicted use resource amount of the target module reaches a predetermined amount  
(paragraphs [0009], [0030], [0031]).

As per claim 10, Jackson teaches a storage medium wherein the program causes the computer to perform: displaying a screen for capacity planning support including a transition of a use resource amount that is predicted for a long time (paragraph [0457], [0458]).

As per claim 11, Jackson teaches a conveyance signal for conveying a program for a computer adjusting for each module an amount of computer resources used in a system having a plurality of modules each comprising at least one application programs, wherein the program causes the computer to perform: obtaining data representing a transition of a transaction occurrence amount of a target module from a storage device storing data representing a transition of a past transaction occurrence amount for each of a plurality of modules; generating a transition of a use resource amount using the transition of the transaction occurrence amount of the target module by using the transaction occurrence amount as a transaction processing amount in a function that expresses a correlation between a past transaction processing amount and a past use resource amount of the target module; using the generated transition of the use resource amount as a transition of a predicted use resource; and automatically fluctuating an allocation resource amount of the target module in accordance with the transition of the predicted use resource amount.

As per claim 12, claim 12 is substantially the same as claim 1 but in method form rather than apparatus form. Therefore, the rejection for claim 1 applies equally as well to the rejection for claim 12.



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**As per claim 13**, claim 14 is substantially the same as claim 1 and thus rejected using similar rationale.

**As per claim 14**, claim 14 is substantially the same as claim 1 and thus rejected using similar rationale.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

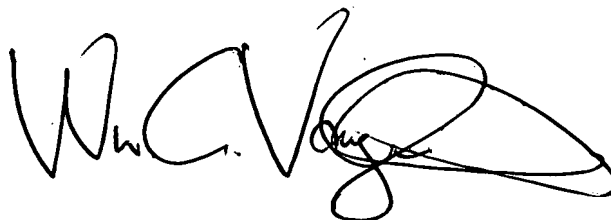
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***JMC***

**William C. Vaughn**

**Supervisory Patent Examiner**

**September 18, 2007**

A handwritten signature in black ink, appearing to read 'W.C. Vaughn', with a large, stylized loop at the end.